



MISSOULA COUNTY OFFICE OF PLANNING & GRANTS

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SENATE JUDICIARY  
EXHIBIT NO. 8  
DATE 3/17/09  
BILL NO. HB 228

March 17, 2009

RE: House Bill 228

Chairman Perry and Honorable Members of the Senate Judiciary Committee:

My purpose in testifying before the Senate Judiciary Committee today is to request that you vote "NO" on HB 228. This letter is a written version of my testimony should you wish to reference it later. I work as a Grants Administrator at the Office of Planning and Grants, primarily working to build and support domestic violence prevention and intervention programs.

If enacted, House Bill 228 will threaten public safety under the guise of "clarifying" self-defense. Whereas self-defense is a critical component of many domestic violent situations, this law will create large loopholes for perpetrators of domestic violence and will have serious unintended public safety consequences.

**The Missoula Office of Planning and Grants and the Crime Victim Advocate Program oppose House Bill 228 for the following reasons:**

- **Allows for the brandishing of a weapon at any time without justification.** Montana's Fatality Review team has identified that firearms have been used in 70% of domestic violence homicides in the state. The men and women who choose to use guns to threaten and intimidate their partners and their children must be held accountable. As advocates, we know that a gun can be a threat in and of itself to a domestic violence victim. Allowing an abuser to legally brandish a gun simply escalates the situation. Please do not legalize this threatening and abusive behavior.
- **Provides for the carrying of a concealed weapon by anyone without a permit.** There are currently no barriers to law-abiding individuals, who obtain permits, to bring guns into public situations for the purposes of personal safety. Carrying a concealed weapon without obtaining a permit raises questions about the motive of the individual choosing to carry a weapon. We know that guns, in and of themselves, are not the problem. People who use guns unlawfully are the problem. Individuals with criminal, violent or paranoid motives, who choose to use guns, should not be allowed to be armed in the public sphere with no checks and balances. This poses a serious public safety issue.
- **Undermines 18 years of improvements to domestic violence statutes.** Domestic violence perpetrators use many tools to threaten, intimidate and harm their victims. These threats are often ugly and brutal. HB 228 shifts the investigation and prosecution of false self-defense claims, effectively allowing a partner to use deadly force as the first option as opposed to the last resort. A law such as HB 228 would all but assure victims that their partner's are telling the truth when they threaten, "I will kill you and the police will not be able to touch me. I will tell them that you were acting crazy, that you threatened me and that it was self-defense." In a situation where there are no witnesses, no other motives and an abuser who is an effective liar, there will be victims of homicide and no justice. This is not a Montana value.


This bill has the potential to decriminalize many "precursors" to violent and tragic situations. I would like to share the following scenario with you to illustrate this point:

Mike and Sarah are both 15 and attending high school. They had been dating until Mike began acting jealous and possessive of Sarah. During an argument he hit a wall near her head while yelling at her. Sarah was scared and broke up with him. Mike is distraught and said that he is going to come to school and "show her." The next day Mike pulls out the two guns he had gotten for Christmas and puts them in his coat pockets. He walks to school with the weapons concealed. He goes to the empty lot across the street from their school and waits for Sarah to show up. While waiting, he takes out the guns and waves them in the air so that everyone can see. Sarah's friends see him and are scared for her. In this post-Columbine era, they are terrified for themselves as well.

If HB 228 passes, Mike has not broken one law. Until he crosses the street, points the gun or pulls the trigger, he is perfectly within his rights to carry and brandish his weapons. This is the type of situation that we, as reasonable and just people of the State of Montana, should be able to intervene before it escalates. We need the tools that we currently have to identify a threat and defuse it. We need to be kept safe, while maintaining our already proven, strong commitment to gun rights. HB 228 is radical, does not address a current problem in the law, and creates loopholes for many dangerous and unjust situations.

**Please vote "NO" on HB 228.**

Thank you for your consideration,



Shantelle Gaynor